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**April 2009 Monthly Report for MTC**

**To:** Steve Heminger, Executive Director  
MTC

**From:** Tom Bulger, President  
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GRI

**Re:** Monthly Report for April 2009

**Date:** April 30, 2009

- 1. MTC Executive Director Steve Heminger Testifies Before the Senate Commerce Committee**
- 2. April Authorization Meetings**
- 3. Congress Passes FY 2010 Budget Framework**
- 4. President Obama Announces High Speed Rail Plan**
- 5. EPA Announced Greenhouse Gas Emissions Pose Threat to Public Health**
- 6. House Continues Climate Change Push**
- 7. House Transportation & Infrastructure Committee Announces Earmark Process**
- 8. Status of USDOT Appointments**

## **1. MTC Executive Director Steve Heminger Testifies Before the Senate Commerce Committee**

On April 28, 2009 MTC Executive Director Steve Heminger testified before the Senate Commerce Committee on the future of the transportation system. During the hearing's opening statements, Senator Frank Lautenberg (D-NJ) noted that there needs to be a bold new vision for the next transportation bill. Senator John Thune (R-SD) mentioned in his statement that Build America bonds were a tool that could supplement federal transportation spending. Senator Kay Bailey Hutchinson (R-TX) suggested that there needs to be a reform of the federal government's role. Specifically, she called for legislation that would allow for states to opt-out of the federal aid highway program, noting continuing discrepancies between donor and recipient states.

U.S. Department of Transportation (DOT) Secretary Ray LaHood testified before Mr. Heminger, and focused on how high-speed rail stimulus money would be distributed this summer (see information below). He commented briefly on the status of economic recovery money and how it was being used. In the heart of his statement, he noted the beginning of a new direction for transportation due to a number of factors including aging of the system, increased demand for transit and the need for additional freight movement. New efforts include looking into performance objectives, livable communities with the Department of Housing and Urban Development (HUD), and fuel efficiency standards.

## **2. April Authorization Meetings**

In April, Mr. Heminger and a majority of the National Surface Transportation Policy and Revenue Study Commission held a series of meetings in Washington, D.C. We helped set up a number of specific meetings for Mr. Heminger and several of the commissioners. Below is a summary of those meetings:

- ***DOT Secretary Ray LaHood*** – The Secretary emphatically stated that the Obama administration would not support a gas tax increase at this time because of the nation's economy, but he did not rule out future consideration. He recommended continued outreach.
- ***Senator Kit Bond (R-MO)*** – The Senator and his committee staff complained that they were unsure what to do about authorization and the condition of the highway trust fund. Senator Bond said that the Highway Trust Fund may need another general fund allocation by the end of the fiscal year.
- ***Senator Patty Murray (D-WA)*** – The Senator was joined by Peter Rogoff, Senate Transportation Appropriation Staff Director, recently nominated to be the next Federal Transit Administrator. Senator Murray discussed her concerns about funding a system based on vehicle miles traveled (VMT).
- ***White House Meeting*** – The Commission met with Xavier Briggs, Office of Management & Budget Transportation Director, Roy Kienitz, Undersecretary for Policy at DOT, Jason Furman, National Economic Council to the President, Derek Douglas, Democratic Policy Council, and Jon Samuels, White House Office of Congressional Affairs. No decisions on the future transportation bill were agreed to; however, the discussion was lively.
- ***Senator Barbara Boxer (D-CA)*** – The Senator was joined by her Environment and Public Works Committee staff. She said she knows that a gas tax will be necessary to make the

highway trust fund solvent. She added that an indexing mechanism was preferable. Her committee is just beginning to craft an authorization bill.

- ***Congressman Earl Blumenauer (D-OR)*** – Congressman Blumenauer unveiled his Rebuilding and Renewal of America proposal, which begins with a repeal of the federal gas tax over the next 12 years. A VMT (mileage-based) system would replace the gas tax. In addition, 10 percent of the proposed cap & trade proceeds would be dedicated to infrastructure. His proposal would also support a per-barrel fee to every barrel of domestic or foreign oil produced, equal to the difference of market price and an inflation adjusted price in the \$60 to \$75 range.
- ***Congressman Jim Oberstar (D-MN); Congressman John Mica (R-FL); Congressman Peter DeFazio (D-OR)*** – Congressman Oberstar, Chairman of the House Transportation & Infrastructure Committee, unveiled a framework and vision for the next transportation bill. While many of the details are still being worked out and were discussed, Chairman Oberstar shared some of his visions, which are consistent with the National Surface Transportation Policy and Revenue Study Commission's findings in many ways. They include looking at reducing the number of federal programs, making the transportation program based on performance rather than prescription, and reforming the project delivery process to make it more effective and more efficient.
- ***Senate Majority Leader Harry Reid (D-NV)*** – Senate Majority Leader Reid indicated concern that the climate change and transportation bills are not strategically joined. In addition, he did not think it would be possible to address both pieces of legislation this session of Congress. This was also mentioned in meetings with staff from the Environment & Public Works Committee.

Other meetings included: Senator Frank Lautenberg (D-NJ), Senate Commerce Committee staff, and Senate Environment & Public Works Committee staff.

### **3. Congress Passes FY 2010 Budget Framework**

In April, Congress passed a FY 2010 budget framework that will allow for the FY 2010 appropriation process to begin. Of particular note, the conference agreement included the House's budget numbers for FY 2010, which were roughly \$12 billion higher than the Senate's in FY 2010; an \$85 billion difference over the next six years. The budget also includes provisions that allow room for Congress to pass transportation and climate change legislation within budget rules.

### **4. President Obama Announces High Speed Rail Plan**

On April 16, President Obama, Vice President Biden and Secretary LaHood released a plan towards developing \$8 billion in high speed rail, stemming from the economic recovery legislation. According to the plan, by late this summer, the Federal Railroad Administration will begin to award the first round of grants. The report identifies ten high speed rail corridors as potential recipients for federal funding: California, Pacific Northwest, South Central, Gulf Coast, Chicago Hub Network, Florida, Southeast, Keystone, Empire and Northern New England. The

Northeast corridor will compete for funds as the only existing high speed rail corridor for the nation.



States and cities are urged to put together plans for a network of 100 to 600 mile corridors. The plan includes these four types of service:

- HSR – Express: Frequent express service between major population centers 200 to 600 miles apart, with few intermediate stops, and top speeds of at least 150 mph on completely grade-separated, dedicated rights-of-way.
- HSR – Regional: Relatively frequent service between major and moderate population centers 100 to 500 miles apart with some intermediate stops, top speeds of 110 to 150 mph, and grade separated with some dedicated and some shared track.
- Emerging HSR: Developing corridors of 100 to 150 miles, with strong potential for future HSR Regional/Express service, and top speeds of 90 to 100 mph on primarily shared track.
- Conventional Rail: Traditional intercity passenger rail service of more than 100 miles, with as little as one, to as many as seven to twelve daily frequencies, may or may not have strong potential for future high-speed rail service, and top speeds of 79 to 90 mph on shared track.

The \$8 billion will be divided into three different programs: the project grant agreement, the corridor program cooperative agreement, and then planning cooperative agreement. Prerequisites for funding include:

- Completed planning and project development work;
- There must be a written agreement between the states involved, the host railroads, the service operators and other stakeholders;
- There must be a detailed financial operating forecast, along with project capital costs and all non-federal funding sources must be provided; and
- The project must have the capability to manage the projects such as staff resources, budget schedules, control/change order procedures, quality control processes, oversight provisions and reporting mechanisms.

After applicants meet the above four prerequisites, they will be judged on the criteria below:

- The project must contribute to the economic recovery, advance strategic transportation goals and further other high-speed and inter-city passenger rail goals;
- There must be fiscal and institutional capacity to carry out and manage the project, including financial projections and plans, commitments from stakeholders, and experience and procedures for managing financial, management and construction risks; and
- Timelines of benefits, sufficiency of reporting requirements and management approach, and completeness and quality of the application will be factored in.

The tentative schedule is as follows:

- June 17, 2009 – Deadline for FRA to publish guidance in the Federal Register requesting applications.
- August 2009 – Applications for funds under Track 1 and Track 3 due.
- October 2009 – Grants will be announced under Track 1 and 3. Applications for funds under Track 2 due.
- December 2009 – Grants will be announced under track 2.
- January 2010 – Applications for Round 2 of funding under Track 2 due.
- March 2010 – Grants will be announced for Round 2 of Track 2. Applications for Round 2 of funding under Track 1 due.
- May 2010 – Grants will be announced under Track 1, Round 2. Applications for round 2 of funding under Track 2 due.

## **5. EPA Announced Greenhouse Gas Emissions Pose Threat to Public Health**

On April 17, the Environmental Protection Agency (EPA) officially adopted a position that carbon dioxide and other greenhouse gas emissions can pose a threat to the public's health. This stance marks a major shift in the government's position on global warming. The Bush Administration would not limit greenhouse gas emissions, worried it would hurt business. Previously, the EPA would not identify such admissions as pollutants under the Clean Air Act.

This stance is likely to put pressure on Congress to pass legislation that would limit greenhouse gas emissions; however, if Congress does not act, the Obama Administration is likely to propose rules through the EPA to regulate some of the greenhouse gas emissions blamed for global warming. Industry officials have said they would rather help shape legislation than have to conform to regulations administered by the EPA. There is a 60-day comment period for the proposed finding. After that, experts say the EPA will be obligated to regulate greenhouse gas emissions from cars and light trucks. Many of the Bush decisions have yet to be determined by the court system. The Obama announcement, when finalized, will most likely end up in court, putting additional pressure Congress to act.

## **6. House Continues Climate Change Push**

A draft comprehensive climate change bill, The American Clean Energy and Security Act of 2009, has been proposed by Representatives Henry Waxman (D-CA) and Edward Markey (D-MA). In April, the Energy and Commerce Committee, chaired by Representative Waxman, held

a series of hearings on the legislation, in anticipation of a mark-up to occur next week. More than 60 witnesses testified.

Most noteworthy among the many testimonies delivered were those of EPA Administrator Lisa Jackson, Energy Secretary Steven Chu and Transportation Secretary LaHood. Secretary LaHood indicated that his department is already taking steps to combat the long term impacts of climate change.

Currently, the legislation includes one section directly pertaining to transportation or infrastructure. That section is based on California State law SB 375. Specifically, the provision requires state and local planning agencies to develop and implement plans to reduce carbon emissions from the transportation sector through a variety of techniques that would reduce VMT.

The current discussion draft does not include apportionment of proceeds, so at this point it is unknown if any funding from this legislation would be directed to transportation. There is a push from many advocates to dedicate 10 percent of the funding to transportation. The House has scheduled a series of mark-ups for May. We will continue to monitor and coordinate activities with MTC staff.

## **7. House Transportation & Infrastructure Committee Announces Earmark Process**

House Transportation & Infrastructure Committee Chairman Jim Oberstar (D-MN) has indicated that he plans to introduce a draft six-year surface transportation reauthorization bill soon. In anticipation of releasing a draft House bill in late May. The Committee is asking members of Congress to submit requests for “High Priority Projects” (HPPs), otherwise known as earmarks, to the committee by May 8. Although earmarked projects in previous authorization bills have generated tremendous controversy and criticism, the Committee believes that a combination of tight eligibility criteria, mandatory certifications and extensive public disclosure will help to avoid those problems in the future. We have provided the relevant information and timelines to MTC staff.

## **8. Status of USDOT Appointments**

Below is a listing and status of political appointees related to DOT:

| <b>Position</b>                                  | <b>Name</b>          | <b>Latest Action</b>           |
|--|----------------------|--------------------------------|
| DOT Secretary                                    | Ray LaHood           | Confirmed                      |
| DOT Chief of Staff                               | Joan DeBoer          |                                |
| DOT Deputy Chief of Staff                        | Marlise Streitmatter |                                |
| DOT Deputy Secretary                             | John Pocari          | Nomination announced 4/10/09   |
| DOT Under Secretary for Policy                   | Roy Kienitz          | Confirmed                      |
| Special Assistant to the Under Secretary         | Sarah Cottingham     |                                |
| DOT General Counsel                              | Robert Rivkin        | nomination transmitted 4/20/09 |
| DOT Assistant Secretary for Governmental Affairs | Dana Gresham         | nomination transmitted 3/10/09 |
| Associate Director for Governmental Affairs      | Yasmin Yaver         |                                |
| Associate Director for Governmental Affairs      | Curtin Johnson       |                                |
| Deputy Assistant Secretary for Policy            | David Matsuda        |                                |
| Deputy Assistant Secretary for Policy            | Beth Osborne         |                                |

| <b>Position</b>  | <b>Name</b>         | <b>Latest Action</b>           |
|--|---------------------|--------------------------------|
| Assistant Secretary for Public Affairs                                 | Jill Zuckman        |                                |
| White House Liaison in the Office of the Secretary                     | Nate Turnbull       |                                |
| Director of the Office of Small and Disadvantaged Business Utilization | Brandon Neal        |                                |
| Deputy Press Secretary   | Olivia Alair        |                                |
| FAA Administrator  | J. Randolph Babbitt | nomination announced 3/27/09   |
| Deputy Assistant Secretary for Aviation & International Affairs        | Christa Fornarotto  |                                |
| FHWA Administrator   | Victor Mendez       | nomination announced 4/2/09    |
| FTA Administrator  | Peter Rogoff        | nomination announced 4/8/09    |
| FRA Administrator  | Joe Szabo           | nomination transmitted 3/26/09 |
| Deputy Federal Railroad Administrator                                  | Karen Rae           |                                |
| NHTSA Administrator  | Charles Hurley      | nomination announced 4/8/09    |
| RITA Administrator   | Peter Appel         | nomination transmitted 4/20/09 |